

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NIKO SIMMONS

Plaintiff,

v.

CASE NO: 08-CV-14546-DT

AUGUSTINE, Sergeant, et al.,

Defendants

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter was referred to United States Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. §636(b)(1)(B) and Local Rule 72.1. In his June 17, 2009 report, the magistrate judge recommends that this court grant Defendants' Motion to Dismiss for Failure to Exhaust Administrative Remedies, (Doc #20), Defendants' Motion for Summary Judgment (Doc #22), that the John Doe defendants be dismissed and that the case be dismissed in its entirety with prejudice. It was further recommended that Plaintiff's various motions be denied as moot. (Docs# 26, 27, 28, 29, 35, 36, and 38.)

No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C), thus further appeal rights are waived.¹ Having reviewed the file and the Report, the court concludes

¹ The failure to object to the magistrate judge's report releases the court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Any objection was due with the ten days of service, which occurred not later than April 30, 2004, Fed.R.Civ.P.6(e). No objection has been filed as of the date of this order.

that the findings and conclusions of the Magistrate Judge are correct and ADOPTS the same for purposes of this Order.

ORDER

IT IS ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, the Plaintiff's various motions are **DENIED AS MOOT**, (Docs # 26, 27, 28, 29, 35, 36 and 38.) Defendants' Motion to Dismiss (Doc #20) and Defendants' Motion for Summary Judgement (Doc #22) are **GRANTED**.

IT IS FURTHER ORDERED that the John Doe defendants are **DISMISSED**.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 22, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 22, 2009, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522